

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

UNITED STATES OF AMERICA,

Plaintiff,

-against-

RARE BREED TRIGGERS, LLC; RARE BREED FIREARMS, LLC; LAWRENCE DEMONICO; KEVIN MAXWELL,

Defendants.

Case No. 1:23-cv-00369-NRM-RML

DEFENDANTS' EXHIBIT LIST FOR PRELIMINARY INJUNCTION HEARING

Defendants Rare Breed Triggers, LLC, Rare Breed Firearms, LLC, Lawrence DeMonico, and Kevin Maxwell, hereby provide their exhibit list for the August 1 and 2 preliminary injunction hearing.

	Exhibit Description and Bates-Number	The United States' Objection, if Any	Response to Objection
A	Video: Kevin Maxwell legal explanation of FRT-15's legality (December 2, 2020) ¹		
B	Video: RBT full video containing legal overview and function explanation (December 2, 2020) ²		
C	Video: RBT animated explanation of FRT-15 function (December 2, 2020) ³		
D	Video: Lawrence DeMonico interviewing expert Dan O'Kelly about FRT-15 (January 23, 2021) ⁴		
E	Video: RBT public statement re: ATF's cease and desist letter (August 19, 2021) ⁵		

¹ Bates-numbers (RTF): 26488

² Bates-numbers (RTF): 26487

³ Bates-numbers (RTF): 26486

⁴ Bates-numbers (RTF): 26489

⁵ Bates-numbers (RTF): 26480

F	Video: RBT public statement re: status update on litigation against ATF (March 26, 2022) ⁶		
G	Video: RBT technical comparison of FRT-15 vs Geissele trigger ⁷		
H	Video: RBT technical comparison of FRT-15 vs full-auto machinegun ⁸		
I	Video: RBT technical demonstration of FRT-15 functioning in slow motion ⁹		
J	Video: RBT technical demonstration of WOT functioning in slow motion ¹⁰		
K	Video: RBT technical demonstration of FRT-15 jamming from excessive finger pressure ¹¹		
L	Video: RBT technical demonstration of FRT-15 zip tie test ¹²		
M	Video: Jerry Miculek firing faster than the FRT-15 ¹³		
N	Video: 3 rd party demonstration of Fostech Echo 2 trigger firing ¹⁴	FRE 402, 403 (relevance, confusing, misleading, unduly prejudicial); FRE 611 (waste of time); lack of foundation	Relevant to accuracy of ATF determination regarding the FRT-15 by demonstrating the similarity with the approved Echo 2. Note ATF approval letter (next exhibit). Demonstrates and clarifies operation; not confusing or misleading; so not prejudicial. Any necessary foundation will be laid at the hearing.

⁶ Bates-numbers (RTF): 26481

⁷ Bates-numbers (RTF): 26483

⁸ Bates-numbers (RTF): 26482

⁹ Bates-numbers (RTF): 26482

¹⁰ Bates-numbers (RTF): 26485

¹¹ Bates-numbers (RTF): 26738

¹² Bates-numbers (RTF): 26484

¹³ Bates-numbers (RTF): 26479

¹⁴ Bates-numbers (RTF): 26737

O	ATF approval letter: Fostech trigger ¹⁵		
P	ATF approval letter: 3MR trigger (October 31, 2013) ¹⁶		
Q	ATF approval letter: Hellfire trigger (August 3, 1990) ¹⁷		
R	ATF determination letters re: shoestring machineguns (September 30, 2002, and June 25, 2007) ¹⁸		
S	ATF exam: FRT-15 (July 15, 2021) ¹⁹		
T	ATF exam: FRT-15 (October 20, 2021) ²⁰		
U	ATF exam: FRT-15 (April 27, 2023) ²¹		
V	ATF exam: WOT (October 21, 2021) ²²		
W	ATF exam: WOT (January 13, 2023) ²³		
X	ATF exam: AR1 (August 28, 2018) ²⁴		
Y	Brian Luettke expert report with exhibits, including previous reports (June 30, 2023) ²⁵		
Z	Kevin McCann expert opinion with exhibits, including previous opinions (June 30, 2023) ²⁶	Plaintiff withdraws any prior objection made in light of the Court's ruling on the motion in <i>limine</i>	
A1	Daniel O'Kelly expert report with exhibits, including previous reports (June 30, 2023) ²⁷		
B1	Rick Vasquez expert report with exhibits, including previous reports (June 30, 2023) ²⁸		
C1	ATF letter to RBT (July 26, 2021) ²⁹		
D1	ATF letter to RBT (November 15, 2021) ³⁰		
E1	ATF letter to 3 rd Gen Machine Inc. (January 12, 2022) ³¹		

¹⁵ Bates-numbers (RTF): 26493

¹⁶ Bates-numbers (RTF): 384-385

¹⁷ Bates-numbers (RTF): 26494

¹⁸ Bates-numbers (RTF): 26495-26497

¹⁹ Bates-numbers (USA): 1-66

²⁰ Bates-numbers (USA): 75-295

²¹ Bates-numbers (USA): 456-512

²² Bates-numbers (USA): 296-310

²³ Bates-numbers (USA): 412-455

²⁴ Bates-numbers (USA): 41-66

²⁵ Bates-numbers (RTF): 26545-26592

²⁶ Bates-numbers (RTF): 26593-26598

²⁷ Bates-numbers (RTF): 26599-26669

²⁸ Bates-numbers (RTF): 26670-26720

²⁹ Bates-numbers (RTF): 382-383

³⁰ Bates-numbers (USA): 13206-13207

³¹ Bates-numbers (RTF): 26490-26492

F1	Kevin Maxwell rebuttal letter to ATF (August 2, 2021) ³²		
G1	ATF open letter re: FRTs (March 22, 2022) ³³		
H1	RBT emails with customers re: FRT-15 returns and litigation with the ATF ³⁴		
I1	RBT emails with customers re: ATF approval letter for FRT-15 ³⁵		
J1	RBT emails with customers re: ATF's open letter about FRT-15 ³⁶		
K1	RBT emails with customers re: RBT's position on FRT-15's legality ³⁷		
L1	Judge PR email to RBT re: report on RBT's press to media regarding ATF's determination that FRT-15 is a machinegun (June 30, 2023), containing Judge PR's report on the press release ³⁸		
M1	Archive image of Rarebreedtriggers.com (December 31, 2020) ³⁹	FRE 402, 403 (relevance, confusing, misleading); FRE 901 (authenticity)	Relevant because Government claims depend on Defendants' representations and intent. No confusion. Any necessary foundation and authenticity to be established at hearing. Government has its own exhibits that are copies of website.

³² Bates-numbers (USA): 13202-13205

³³ Bates-numbers (RTF): 9099-9100

³⁴ Bates-numbers (RTF): 9785-86; 9963-67; 9986-87; 9990; 10550-51; 26424-25.

³⁵ Bates-numbers (RTF): 6151; 6154-55; 6159-61; 6193-94; 6201-04; 6453; 6504-05; 11354-55; 13719; 10561-62; 10657; 10664-65; 10609; 10820-21; 11045; 13731; 11363-65; 11436-37; 14136-38; 14503; 16148-49; 16206; 17109; 17328-29; 12089-90; 16018; 16055-56; 16593; 17620.

³⁶ Bates-numbers (RTF): 9157-63; 9186-90; 9150.

³⁷ Bates-numbers (RTF): 9727, 22584, 24986

³⁸ Bates-numbers (RTF): 26498-26535

³⁹ Bates-numbers (RTF): 26721-26725

N1	Archive image of Rarebreedtriggers.com (May 27, 2021) ⁴⁰	FRE 402, 403 (relevance, confusing), FRE 901 (authenticity)	Relevant because Government claims depend on Defendants' representations and intent. No confusion. Any necessary foundation and authenticity to be established at hearing. Government has its own exhibits that are copies of website.
O1	Archive image of Rarebreedtriggers.com (May 20, 2022) ⁴¹	FRE 402, 403 (relevance, confusing), FRE 901 (authenticity)	Relevant because Government claims depend on Defendants' representations and intent. No confusion. Any necessary foundation and authenticity to be established at hearing. Government has its own exhibits that are copies of website.

⁴⁰ Bates-numbers (RTF): 26736-26738

⁴¹ Bates-numbers (RTF): 26731-36735

P1	Archive image of Rarebreedtriggers.com (February 3, 2023) ⁴²	FRE 402, 403 (relevance, confusing), FRE 901 (authenticity)	Relevant because Government claims depend on Defendants' representations and intent. No confusion. Any necessary foundation and authenticity to be established at hearing. Government has its own exhibits that are copies of website.
Q1	Video: 3 rd party demonstrating fire-rate of ATF-approved 3MR trigger: https://www.youtube.com/watch?v=GFnDCk6IZ7A . ⁴³		
R1	Video: 3 rd party demonstrating fire-rate of ATF-approved 3MR trigger: https://youtu.be/eQtCTUq4Y_I?t=36 . ⁴⁴		
S1	Akins Accelerator first approval letter (November 17, 2003) ⁴⁵		N/A
T1	Akins Accelerator clarification letter (January 29, 2004) ⁴⁶		N/A
U1	FEO Anthony Ciravolo deposition transcript ⁴⁷	Plaintiff objects because under the Court's scheduling order, deposition designations are due by July 25, 2023.	N/A

⁴² Bates-numbers (RTF): 26726-26730

⁴³ Bates-numbers (RTF): 26741

⁴⁴ Bates-numbers (RTF): 26742

⁴⁵ Bates-numbers (RTF): 27495-27496

⁴⁶ Bates-numbers (RTF): 28056-28057

⁴⁷ Bates-numbers (RTF): 27497-27752

V1	FEO David Smith deposition transcript	Plaintiff objects because under the Court's scheduling order, deposition designations are due by July 25, 2023; the United States will consent to an extension of that deadline for the parties to designate portions of David Smith's deposition transcript.	N/A
W1	Email exchange between Kevin Maxwell and Michael Clendenen (August 11, 2021) ⁴⁸		N/A
X1	Kevin Maxwell letter to Craig Saier (November 2, 2021) ⁴⁹		N/A
Y1	Kevin Maxwell response letter to Craig Saier (December 21, 2021) ⁵⁰		N/A
Z1	Complaint, ECF No. 7: <i>Rare Breed Triggers, LLC v. Garland</i> , No. 6:21-cv-1245-CEM-GJK (August 3, 2021) ⁵¹		
A2	Notice of Unavailability, ECF No. 69: <i>Rare Breed Triggers, LLC v. Garland</i> , No. 6:21-cv-1245-CEM-GJK (October 13, 2021) ⁵²		
B2	Order Dismissing without Prejudice, ECF No. 75: <i>Rare Breed Triggers, LLC v. Garland</i> , No. 6:21-cv-1245-CEM-GJK (October 28, 2021) ⁵³		

⁴⁸ Bates-numbers (RTF): 27805-27806

⁴⁹ Bates-numbers (RTF): 27827-27858

⁵⁰ Bates-numbers (RTF): 27488

⁵¹ Bates-numbers (RTF): 27807-27824

⁵² Bates-numbers (RTF): 27486

⁵³ Bates-numbers (RTF): 27800-27801

C2	Complaint, ECF No. 1: <i>Rare Breed Triggers, LLC v. Garland</i> , No. 3:22-cv-00085-ARS (May 16, 2022) ⁵⁴		
D2	Transcript from hearing: <i>Rare Breed Triggers, LLC v. Garland</i> , No. 6:21-cv-1245-CEM-GJK (October 6, 2021) ⁵⁵		
E2	ATF National Firearms Act Handbook excerpts ⁵⁶		
F2	Video: ATF attempting to seize an FRT-15 from a customer ⁵⁷	FRE 402, 403 (relevance, confusing, misleading); FRE 901 (authenticity); FRE 611 (waste of time); lack of foundation	Relevant and not confusing or misleading -- Government is introducing evidence of customer statements and reactions to ATF opinion. Depicts statements and actions of Plaintiff's agents, consistent with ATF statements used in deposition of Ciravollo, ATF's Open Letter, and the ATF's cease and desist letter. Any necessary foundation and authenticity to be established at hearing.
G2	Video: 3 rd party demonstration of a Franklin binary trigger vs FRT-15 ⁵⁸		

⁵⁴ Bates-numbers (RTF): 27927-27981

⁵⁵ Bates-numbers (RTF): 28001-28055

⁵⁶ Bates-numbers (RTF): 27997-28000

⁵⁷ Bates-numbers (RTF): 27803

⁵⁸ Bates-numbers (RTF): 27804

H2	Brief for Appellee: <i>U.S. v. Camp</i> , 2003 WL 22853376 (January 8, 2003) ⁵⁹		
I2	Social media activity by Anthony Ciravolo ⁶⁰	FRE 402, 403 (relevance, confusing, misleading, unduly prejudicial); lack of foundation; FRE 901 (authenticity); FRE 611 (waste of time)	Relevant to bias and credibility of Ciravolo. Issue addressed in Ciravolo's deposition. Any necessary foundation and authenticity to be established at hearing.
J2	Social media activity reflecting bias against RBT ⁶¹	FRE 611 (waste of time); the exhibit title itself is also argumentative	Relevant to bias and credibility of Ciravolo. Issue addressed in Ciravolo's deposition. Any necessary foundation and authenticity to be established at hearing.
K2	Images of James Yeager in news report ⁶²	FRE 402, 403 (relevance, unduly prejudicial); FRE 611 (waste of time)	Relevant to bias and credibility of Ciravolo. Issue addressed in Ciravolo's deposition. Any necessary foundation and authenticity to be established at hearing.
L2	Opinion of Court: <i>Cargill v. Garland</i> , 57 F.4th 447 (5th Cir. 2023) ⁶³		

⁵⁹ Bates-numbers (RTF): 27753-27779

⁶⁰ Bates-numbers (RTF): 27989-27996

⁶¹ Bates-numbers (RTF): 27433-27438

⁶² Bates-numbers (RTF): 27825-27826

⁶³ Bates-numbers (RTF): 27859-27920

M2	Opinion of Court: <i>Hardin v. Bureau of Alcohol, Tobacco, Firearms & Explosives</i> , 65 F.4th 895 (6th Cir. 2023) ⁶⁴		
N2	Opinion of Court: <i>United States v. Cash</i> , 149 F.3d 706 (7th Cir. 1998) ⁶⁵		
O2	Opinion of Court: <i>United States v. George Arthur Dodson III</i> , 519 Fed. Appx. 344 (6th 2013) ⁶⁶		
P2	Opinion of Court: <i>Staples v. United States</i> , 511 U.S. 600 (1994) ⁶⁷		
Q2	RBT's sales figures/reports 2020-2023 ⁶⁸	Lack of foundation	Any necessary foundation and authenticity to be established at hearing.
R2	United States Marine Corps Technical Manual for M16 excerpts ⁶⁹		
S2	Screen capture of Wikipedia page on auto sears (July 14, 2023) ⁷⁰		
T2	Eugene M. Stoner patent for AR-15 auto sear, Patent No. 3,045,555 (July 24, 1962) ⁷¹		
U2	ATF classification letter regarding pistol braces (November 26, 2012) ⁷²		
V2	ATF final rule 2021R-08F (January 31, 2023) ⁷³		
W2	AR-15 receiver with FRT-15 (demonstrative)		
X2	AR-15 receiver with fully automatic configuration (demonstrative)		
Y2	Email thread between David Smith and ATF agents regarding FRT-15 (April 1, 2021) ⁷⁴		
Z2	Video: screen capture of Instagram comments responding to RBT's August 19, 2021, public statement ⁷⁵		

⁶⁴ Bates-numbers (RTF): 26841-26853

⁶⁵ Bates-numbers (RTF): 26924-26926

⁶⁶ Bates-numbers (RTF): 27982-27988

⁶⁷ Bates-numbers (RTF): 27439-27479

⁶⁸ Bates-numbers (RTF): 27780-27799

⁶⁹ Bates-numbers (RTF): 26927-27296

⁷⁰ Bates-numbers (RTF): 27481

⁷¹ Bates-numbers (RTF): 27489-27494

⁷² Bates-numbers (RTF): 27802

⁷³ Bates-numbers (RTF): 26743-26840

⁷⁴ Bates-numbers (USA): 12951-54; Bates-numbers (RTF): 27482-27485

⁷⁵ Bates-numbers (RTF): 27480

A3	Video: 3rd party demonstrating single shots with FRT-15, https://www.youtube.com/watch?v=WHjKfY7t7M4	FRE 402, 403 (relevance, confusing, misleading); FRE 901 (authenticity); FRE 611 (waste of time); lack of foundation	Directly relevant to allegation that FRT-15 is a machine gun. Government also introducing videos of FRT-15 firing. Any necessary authenticity and foundation to be laid at hearing.
B3	Email from public commenting on Kevin Maxwell letter to ATF (August 13, 2021)	Plaintiff reserves objections until such time as Defendants produce, or provide a Bates-number range for, the referenced document	N/A
C3	Video: screen capture of public's comments on Twitter to ATF open letter of forced reset triggers (March 24, 2022)	Plaintiff reserves objections until such time as Defendants produce, or provide a Bates-number range for, the referenced document	N/A

D3	Video: screen capture of public's comments on ATF agents appearing at home of potential forced reset trigger purchaser on Mrgunsngear (May 9, 2023) ⁷⁶	FRE 611 (waste of time); FRE 901 (authenticity)	Directly relevant to allegation that FRT-15 is a machine gun. Government also introducing videos of FRT-15 firing. Any necessary authenticity and foundation to be laid at hearing.
E3	Video: 3rd party animation comparing AR-15 and M16 machinegun, https://www.youtube.com/watch?v=wMIBUIN30yU ⁷⁷		
F3	Video: news broadcast of James Yeager. ⁷⁸	FRE 402, 403 (relevance, unduly prejudicial); FRE 611 (waste of time)	Relevant to bias and credibility of Ciravolo. Issue addressed in Ciravolo's deposition. Any necessary foundation and authenticity to be established at hearing.
G3	News articles about RBT vs ATF ⁷⁹	FRE 402, 403 (relevance, unduly prejudicial); FRE 611 (waste of time); lack of foundation	

⁷⁶ Bates-numbers (RTF): 28060

⁷⁷ Bates-numbers (RTF): 28058

⁷⁸ Bates-numbers (RTF): 28059

⁷⁹ Bates-numbers (RTF): 26854-26923

H3	Standard Form 86, Questionnaire for National Security Positions ⁸⁰	FRE 402, 403 (relevance, confusing, misleading, unduly prejudicial); lack of foundation; FRE 901 (authenticity); FRE 611 (waste of time)	Relevant to credibility of Ciravolo. Issue addressed in Ciravolo's deposition. Any necessary foundation and authenticity to be established at hearing.
I3	Video: Colion Noir Interview with Lawrence DeMonico ⁸¹		
J3	Video: Colion Noir Interview with Lawrence DeMonico, clip at 8:55-11:10.		
K3	Video: RBT public statement re: ATF's cease and desist letter (August 19, 2021), clip at 1:35-2:53		
L3	Video: RBT public statement re: ATF's cease and desist letter (August 19, 2021), clip at 9:12-10:27		
M3	Video: TFB TV interview with Lawrence DeMonico (September 29, 2021) ⁸²		
N3	Video: TFB TV interview with Lawrence DeMonico (September 29, 2021), clip at 2:41-3:12.		
O3	Video: TFB TV interview with Lawrence DeMonico (September 29, 2021), clip at 17:32-18:41.		
P3	Reports of Investigation re: alleged rocket launcher threat to ATF ⁸³		
Q3	Privacy Policy from rarebreedtriggers.com ⁸⁴		
R3	Terms and Conditions from rarebreedtriggers.com ⁸⁵		
S3	Waiver and Release from rarebreedtriggers.com ⁸⁶		

⁸⁰ Bates-numbers (RTF): 27297-27432

⁸¹ Bates-number (USA): 12559

⁸² Bates-number (USA): 514.

⁸³ Bates-numbers (USA): 12825-34.

⁸⁴ Bates-numbers (RTF): 13357-60.

⁸⁵ Bates-numbers (RTF): 13350-56.

⁸⁶ Bates-numbers (RTF): 13361-62.

T3	Video: 3 rd party demonstration of Franklin Binary Trigger firing faster than fully automatic	Plaintiff reserves objections until such time as Defendants produce, or provide a Bates-number range for, the referenced document	N/A
U3	Email from Earl Griffith re: examinations into FRT-15 (August 2, 2021)	Plaintiff reserves objections until such time as Defendants produce, or provide a Bates-number range for, the referenced document	N/A
V3	Report of Investigation from Alexander Jacobo (August 6, 2021)	Plaintiff reserves objections until such time as Defendants produce, or provide a Bates-number range for, the referenced document	Plaintiff initially included this on its privilege log and did not produce it. Only after Defendants included it as an exhibit did Plaintiff produce the document.
W3	ATF letter to Blakley (June 15, 2005) ⁸⁷		
X3	United States' reversal letter to Blakley (June 28, 2007) ⁸⁸		
Y3	ATF warrant on 3 rd Gen (March 24, 2022) ⁸⁹		
Z3	Gambin proposed corporate structure ⁹⁰		

⁸⁷ Bates-numbers (RTF): 29607-29612

⁸⁸ Bates-numbers (RTF): 29626-29629

⁸⁹ Bates-numbers (RTF): 29613-29619

⁹⁰ Bates-numbers (RTF): 29623

A4	Mitch Vilos emails with Kevin Maxwell re: RBT and 3 rd Gen (March 30, 2022) ⁹¹		
B4	ATF definition of single function of trigger (September 28, 1989) ⁹²		
C4	Photo: Camden Mafia skull patch ⁹³		
D4	Photo: Camden Mafia skull tattoo ⁹⁴		
E4	Photo: Cherokee County Sheriff's Office case number for Doug Hill ⁹⁵		

Defendants reserve the right to amend or supplement this list. Defendants reserve the right to use any exhibit on Plaintiff's exhibit list.

July 25, 2023

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⁹¹ Bates-numbers (RTF): 29624-29625

⁹² Bates-numbers (RTF): 29602-29606

⁹³ Bates-numbers (RTF): 29620

⁹⁴ Bates-numbers (RTF): 29621

⁹⁵ Bates-numbers (RTF): 29622